

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

---

|                              |   |                        |
|------------------------------|---|------------------------|
| MONICA HICKMAN,              | ) |                        |
|                              | ) |                        |
| Plaintiff,                   | ) |                        |
|                              | ) |                        |
| v.                           | ) | No. 17-cv-2299-SHM-tmp |
|                              | ) | No. 17-cv-2734-SHM-tmp |
| OXFORD IMMUNOTEC GLOBAL PLC, | ) |                        |
|                              | ) |                        |
| Defendant.                   | ) |                        |

---

REPORT AND RECOMMENDATION

---

Before this court<sup>1</sup> is defendant Oxford Immunotec Global PLC's ("Oxford") motion to dismiss, filed on November 27, 2017. (Action 1, 17-cv-2299-SHM-tmp, ECF No. 33.) In this motion, Oxford requests that the court dismiss plaintiff Monica Hickman's second amended complaint for failing to comply with Federal Rules of Civil Procedure 8, 10, and 12. (Id.) Hickman filed a response on December 27, 2017, in which she moved that the court allow her to amend her complaint, for a third time, so that she might bring it into compliance with the requirements of the Federal Rules of Civil Procedure. (Action 1, ECF No. 34.) On January 18, 2018, the undersigned granted Hickman leave to file the proposed third amended complaint.

---

<sup>1</sup>Pursuant to Administrative Order 2013-05 (Apr. 29, 2013), this case has been referred to the United States magistrate judge for management and for all pretrial matters for determination and/or report and recommendation as appropriate.

As the third amended complaint will supersede the second amended complaint, the undersigned recommends that the court deny Oxford's pending motion based on the second amended complaint as moot and without prejudice. See Greenwood v. City of Memphis, No. 14-2442-JDT-TMP, 2014 WL 4966324, at \*2 (W.D. Tenn. Oct. 2, 2014) (citing B & H Med., L.L.C. v. ABP Admin., Inc., 526 F.3d 257, 267 n. 8 (6th Cir. 2008)) (other citations omitted). If appropriate, Oxford may renew its motion after Hickman files her amended complaint.

Respectfully submitted,

s/ Tu M. Pham  
TU M. PHAM  
United States Magistrate Judge

January 18, 2018  
Date

**NOTICE**

**WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THIS REPORT AND RECOMMENDED DISPOSITION, ANY PARTY MAY SERVE AND FILE SPECIFIC WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS. ANY PARTY MAY RESPOND TO ANOTHER PARTY'S OBJECTIONS WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY. 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(2); L.R. 72.1(g)(2). FAILURE TO FILE OBJECTIONS WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND FURTHER APPEAL.**